

**REMARKS**

Claims 1-15 are pending in this application. By this Amendment, claims 1, 3, 5, 6 and 8-15 are amended. Claims 2, 4 and 7 are canceled without prejudice or disclaimer. Claims 16-19 are added. No new matter is added by these amendments.

**I. The Claims Particularly Point Out and Distinctly Claim the Subject Matter**

The Office Action rejects claims 1, 4-6 and 15 under 35 U.S.C. §112 as being indefinite. This rejection is respectfully traversed.

Applicants respectfully submit that claims 1, 5, 6 and 15 as amended obviate the rejections under 35 U.S.C. §112. Withdrawal of the rejections is respectfully requested.

**II. The Claims Define Allowable Subject Matter**

The Office Action rejects claims 8-15 under 35 U.S.C. §102(e) as being anticipated by Kane et al. (U.S. Patent No. 6,078,850), claims 14 and 15 under 35 U.S.C. §102(e) as being anticipated by Bunn (U.S. Patent No. 6,240,365), claims 1-7 under 35 U.S.C. §103(a) as being unpatentable over Apsell et al. (U.S. Patent No. 6,292,724), and claims 8-13 under 35 U.S.C. §103(a) as being unpatentable over Apsell et al., in view of Kane et al. The rejections are respectfully traversed.

With regard to independent claims 1 and 6, no references disclose a base station side transmitter that transmits information relating to a request of fueling the construction machine to a tie-up station side device provided at a tie-up station which refuels the construction machine, in case that the residual fuel amount of the construction machine is lower than a specified value, as presently claimed.

With regard to claims 8 and 9, no references disclose a communications device that carries out communications with the refueling station selected by the selector to send a request for refueling of the construction machine to the selected refueling station based on the obtained information relating to the selected refueling station, as presently claimed. Although

Kane may disclose "the fuel management/central station 3 communicates with the trains 1 to provide, for example, the lowest price of fuel for trains traveling long routes and requiring refueling en route" (column 4, lines 27-30), Kane does not disclose that the fuel management/central station 3 communicates with the fueling stations 2a, 2b to send a request for refueling of the vehicle to the selected refueling station 2a, 2b. Accordingly, the subject matter of claims 1, 6, 8 and 9, and claims depending therefrom, is distinguishable over the applied art. Withdrawal of the rejections is respectfully requested.

### **III. Conclusion**

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of the claims are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



James A. Oliff  
Registration No. 27,075

Eric D. Morehouse  
Registration No. 38,565

JAO:EDM/sqb

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**OLIFF & BERRIDGE, PLC**  
**P.O. Box 19928**  
**Alexandria, Virginia 22320**  
**Telephone: (703) 836-6400**

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